

COMNAVFORJAPANINST 1750.2A
N00J
16 Oct 1996

Subj: MISCONDUCT BY FAMILY MEMBERS OF U.S. NAVAL SERVICE AND CIVILIAN
PERSONNEL ENJOYING STATUS OF FORCES AGREEMENT (SOFA) STATUS IN JAPAN

Ref: (a) USCINCPACINST 1350.1B
(b) Navy Exchange Manual
(c) Joint Federal Travel Regulations
(d) COMNAVFORJAPANINST 5820.16D
(e) Enlisted Transfer Manual (NAVPERS 15909F)

Encl: (1) Appointment as hearing officer
(2) Letter of notification (action without hearing)
(3) Dependent letter of notification for administrative hearing
(4) Civilian letter of notification for administrative hearing
(5) Letter of notification of action taken at administrative hearing
(6) Procedures for administrative hearings

1. Purpose. To establish procedures to assist local area coordinators and advise Commander, U.S. Naval Forces, Japan (COMNAVFORJAPAN) so appropriate action may be taken in response to alleged misconduct or inappropriate personal behavior on the part of persons, including but not limited to, family members and other SOFA status civilians under COMNAVFORJAPAN cognizance who are not subject to the Uniform Code of Military Justice (UCMJ).

2. Cancellation. This is a complete revision and cancels COMNAVFORJAPANINST 1750.2; therefore, no margin notations have been included.

3. Background. References (a), (b), and (c) set forth administrative sanctions and establishes procedures for early return of family members, or the removal from Japan of civilians, who have become involved in incidents which are embarrassing to the United States Government or are prejudicial to good order, morale, and discipline within COMNAVFORJAPAN's area of regional coordination. Civilian personnel and family members are not normally subject to disciplinary action under the UCMJ. Misconduct of such persons may affect the safety, well-being, and efficiency of the command, which under Navy Regulations is the responsibility of the commanding officer. The naval servicemember stationed overseas is constantly under critical surveillance by the citizens of the country to which assigned. Additionally the conduct of servicemembers, as well as the conduct of their family members, is considered representative of all Americans.

4. Applicability. This instruction applies to all civilians having SOFA status and all family members of U.S. naval service and civilian personnel whose sponsors have SOFA status. This includes, but is not limited to:

- (a) Appropriated and non-appropriated fund DOD civilian employees;
- (b) Family members of appropriated and nonappropriated fund DOD civilian employees;
- (c) Family members of U.S. military members; and
- (d) Family members of employees of U.S. Government contractors.

5. Responsibility. While primary responsibility for a family member's behavior is vested in the sponsor, local area coordinators have the responsibility to ensure effective enforcement of applicable laws, regulations, and standards of conduct within their area of jurisdiction. Since family members of U.S. Forces personnel are generally not subject to the UCMJ, a compelling need exists for administrative review of cases involving family member/civilian misconduct or inappropriate personal behavior. The options available per paragraph 0103 of reference (d) are somewhat limited and are administrative in nature. An administrative hearing format has been established to ensure accurate fact-finding in the review and disposition of such family member/civilian cases.

6. Generally, local area coordinators will administer and enforce the provisions of this instruction. COMNAVFORJAPAN, however, retains the right to review any administrative hearing and, if appropriate, modify its findings and actions. Additionally, COMNAVFORJAPAN may independently hold administrative hearings and award corrective actions. This independent administrative hearing includes rehearing of cases previously conducted by local area coordinators.

7. Administrative Hearing Officer(s) (AHO). One or more commissioned officers may be appointed in writing, enclosure (1), by the local area coordinator and authorized to conduct hearings and recommend appropriate administrative action. Local area coordinators will ensure that hearing officers are of sufficient rank, career experience and possesses the necessary sound judgement to conduct orderly, timely, and well-founded hearings.

8. Discussion. In the present context, "misconduct" means any violation of local law, including Road Traffic Laws, and any violation of the laws of the United States. Thus, it would include common law offenses, such as larceny and assault, as well as acts prohibited by regulations such as illegal possession of drugs, black marketing, and over purchase of controlled commodities. In some circumstances, action by U.S. or Japanese authorities (e.g., by traffic regulations or civil service regulations) may sufficiently address the problem. Normally, corrective action is appropriate and may include, either separately or in combination: verbal or written warning, suspension of privileges, removal of family members from overseas per reference (c), transfer of sponsor from overseas per reference (e), or other applicable directives. In such cases, and in others within the discretion of the local area coordinator, an administrative hearing may be conducted, as provided herein, to permit a thorough examination of the circumstances by an impartial officer. Even if a hearing is not considered necessary, and whether or not any corrective action is taken, any affected individual will always have the opportunity to respond to any allegations of misconduct.

9. Reporting Requirements. U.S. Forces law enforcement authorities, school officials, commissary/exchange officers, and others who receive initial information regarding alleged misconduct by family members and other SOFA status civilians located in the cognizance of COMNAVFORJAPAN area will promptly report that information to the local Commander/Commanding Officer or command/staff/force judge advocate.

10. Procedures. Each incident of misconduct should be resolved as expeditiously and informally as possible. When necessary to prevent future misconduct, local area coordinators may immediately suspend any SOFA privileges, (excluding access to medical treatment facilities) pending processing of the matter. When directed by the local area coordinator, a hearing may be convened to review allegations of civilian misconduct. Enclosures (1) through (5) are sample letters to be used in implementing such

1750.2A

16 Oct 1996

a hearing. Hearing Officers should be guided by the provisions of enclosure (6) as well as reference (a).

11. Appeal. Any appeal by the sponsor, family member, or civilian of any action taken by a local area coordinator per this instruction must be submitted in writing within five working days after receiving notification of the local area coordinator's decision. The appeal must set forth all pertinent facts and the reason(s) for the appeal. The appeal will be forwarded to COMNAVFORJAPAN via the local area coordinator.

11. Exigent Circumstances. Circumstances may exist in family member/civilian misconduct cases, which require immediate command action to preclude further misconduct. Nothing in this instruction is intended to prevent or hinder the legitimate exercise of command authority in such cases (e.g., withholding of privileges, base debarment, or imposition of restricted access to base facilities).

12. Reports. In all cases in which the local area coordinator directs the early return to CONUS of a family member or other civilian, the local area coordinator will forward to COMNAVFORJAPAN, within 10 working days a letter report summarizing the allegations against the member, evidence considered in arriving at the decision directing the member's early return and confirmation of the individual's departure from Japan. COMNAVFORJAPAN Reports Control Symbol 1750-1 is assigned the report required and is assigned for a three-year period from the date of this instruction.

DENNIS J. KERN
Chief of Staff

Distribution: COMNAVFORJAPANINST 5215.3A

List I (less X)

List II (F, G, H, I, J only)

List III (A, C, D, E, G, L only)

List IV (less C)

List V (less I, J, L, M, S)

List VI (A, H only)

List VII (less C, E, F, G, H, J, Y)

List VIII (B, C, G, H, I, K, P only)

Copy to:

List VIII (Y only)

List IX (II only)

Stocked:

Commander

U.S. Naval Forces, Japan (N13)

PSC 473 Box 12

COMNAVFORJAPANINST

1750.2A

16 Oct 1996

From: (local area coordinator)
To:

Subj: APPOINTMENT AS ADMINISTRATIVE HEARING OFFICER (AHO)

Ref: (a) COMNAVFORJAPANiNST 1750.2A

1. Effective _____, 19_____, you are appointed an Administrative Hearing Officer. You will investigate and make specific recommendations in cases referred to you by the Commander or Commanding Officer, _____.

2. While in the performance of your duties as an Administrative Hearing Officer, you will be guided by and should become thoroughly familiar with all portions of reference (a).

Enclosure

1750.2A

16 Oct 1996

From: (Local Area Coordinator)
To:

Subj: REVOCATION OF (TYPE PRIVILEGE BEING REVOKED, E.G., EXCHANGE,
COMMISSARY, PACKAGE, AND CONVENIENCE STORE SHOPPING PRIVILEGES)

Ref: (a) (Incident Report, Etc.)

1. Reference (a) reports you engaged in (nature of violation). Conduct of this nature cannot be tolerated. You are hereby informed that effective the date of this letter, your (privileges being revoked, exchange etc.,) privileges are revoked for a period of (time revoked). You and your sponsor must take your identification card to the Personnel Support Detachment within three working days so that it may be modified accordingly.

2. You may submit a statement in opposition of this action or you may request an administrative hearing by an impartial hearing officer. If you request a hearing, you may be represented by counsel or other personal spokesman at your own expense; however, no right exists to free or assisted legal counsel by the Government. If you choose to do so, you must submit any such statement or notify the hearing officer, (), within three working days of your receipt of this letter. (Hearing Officer) may be reached at the (office and phone number). In any event, your privileges will remain revoked until such time as they are reinstated by separate correspondence.

3. You are also advised that any further misconduct on your part may be grounds for criminal action and may result in additional revocation of your privileges or removal from country.

Copy to:
(Sponsor)
(Sponsor's OIC)
OIC, PERSUPP DET

I hereby acknowledge receipt of this letter.

(Name)

(Date)

(Witness)

(Date)

Enclosure

1750.2A

16 Oct 1996

From: (local area coordinator)
To:

Subj: FAMILY MEMBER LETTER OF NOTIFICATION FOR ADMINISTRATIVE HEARING

Ref: (a) COMNAVFORJAPANINST 1750.2A
(b)

1. This is to inform you that an Administrative Hearing convened per reference (a), will consider the case of your family member, _____, arising from the alleged incident reported in reference (b).

2. Reference (b) alleges that:

3. You will be given every opportunity to be heard on any matter pertaining to this alleged incident.

4. It is requested that you appear with your family member at (location where hearing is to be conducted) (Building _____), (Fleet Activities, Naval Air Station, etc.) _____ at _____ hours on _____, 19____.

5. If you believe the specified time and date will cause a substantial hardship, you must notify the hearing officer in writing providing in detail your reasons for the hardship and suggesting an alternate time/date. Any change of the hearing time/date is at the discretion of the hearing officer. Upon submission of your request for change in time/date, you should not assume the time/date has been changed unless you are specifically notified by the hearing officer. Please contact the hearing officer at extension _____ for further details.

Copy to:
Commanding Officer

Enclosure

1750.2A

16 Oct 1996

From: (local area coordinator)
To:

Subj: CIVILIAN LETTER OF NOTIFICATION FOR ADMINISTRATIVE HEARING

Ref: (a) COMNAVFORJAPANINST 1750.2A
(b)

1. This is to inform you that an Administrative Hearing convened per reference (a), will consider your case involving _____, arising from the alleged incident reported in reference (b).

2. Reference (b) alleges that:

3. You will be given every opportunity to be heard on any matter pertaining to this alleged incident.

4. It is requested that you appear at (location where hearing is to be conducted) (Building _____), (Fleet Activities, Naval Air Station, etc.) at _____ hours on _____, 19____.

5. If you believe the specified time and date will cause a substantial hardship, you must notify the hearing officer in writing providing in detail your reasons for the hardship and suggesting an alternate time/date. Any change of the hearing time/date is at the discretion of the hearing officer. Upon submission of your request for change in time/date, you should not assume that the time/date has been changed unless you are specifically notified by the hearing officer. Please contact the hearing officer at extension _____ for further details.

Copy to:
Commanding Officer

Enclosure

1750.2A

16 Oct 1996

From: (local area coordinator)
To:

Subj: NOTIFICATION OF ACTION TAKEN AT ADMINISTRATIVE HEARING

Ref: (a) COMNAVFORJAPANINST 1750.2A

1.

2.

3. You are advised you may appeal this decision to Commander, U.S. Naval Forces, Japan via (local area coordinator). Any appeal will be in writing and will set forth all pertinent facts and the reason for such an appeal. Any appeal must be submitted within five working days following receipt of this notification.

Copy to:
Commanding Officer

Enclosure

16 Oct 1996

PROCEDURES FOR ADMINISTRATIVE HEARINGS

The following guidelines apply to hearings to inquire into allegations of misconduct on the part of individuals not subject to the Uniform Code of Military Justice. Hearing officers are directed to follow these guidelines and consult the Staff Judge Advocate if further assistance is required.

1. The hearing officer will obtain and review all known police reports or other documentation regarding the incident or incidents.
2. Prior to the hearing, appropriate inquiries should be made to resolve issues and answer questions which may appear from a preliminary review of investigative reports. Prior consultation with personnel within the chain of command may be useful to better understand the problems.
3. The hearing officer shall notify the affected individual, or sponsor if family member is involved, as to the time and place of the hearing.
4. The hearing is intended to permit the individual or individuals whose conduct is in question to respond fully to the allegations. No formalities are required. The rules of evidence do not apply.
5. If the individual concerned or sponsor, if applicable, fails to attend the hearing without good cause, the hearing may be held in absentia.
6. The hearing officer shall review the case with the individual concerned and/or sponsor and ensure all pertinent details are provided, except identification of confidential sources may be withheld. If the hearing is based upon multiple incidents, the individual concerned should be so informed. This notification normally should be accomplished through the letter of notification, but the hearing officer must ensure the individual is fully aware of all allegations, which may bear upon a final determination.
7. The individual or sponsor may be represented by a personal spokesman. No right exists to free or assisted legal counsel provided by the Government.
8. The hearing officer may have witnesses available to give statements, although it is not necessary if existing written statements are sufficient to describe the circumstances.
9. All matters should be freely discussed. The individual and/or sponsor shall be given an opportunity to present evidence including witnesses.

Enclosure